



June 29, 2017

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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Assessment and Collection of Regulatory Fees for Fiscal Year 2017, MD Docket No. 17-134

Dear Ms. Dortch:

On June 28, 2017, I met with Tom Buckley and Roland Helvajian of the Office of the Managing Director and Mika Savir of the Enforcement Bureau to discuss the above captioned proceeding.

Consistent with the attached presentation, we discussed the fact that if the Commission assesses regulatory fees on both common carrier and non-common carrier terrestrial international bearer circuits (IBCs) but retains a capacity-based assessment regime, a given company's share of the fee category will vary as a function of that company's ratio of common carrier to non-common carrier circuits. Assuming that the number of contributing companies remains static, companies that currently have a higher proportion of non-common carrier circuits in service will pay a greater share of the fee category than they do currently. Of course, the number of contributing providers may well increase if there are providers that have only non-common carrier terrestrial IBCs in service, which would result in a relative fee reduction for providers that currently contribute.

We discussed the fact that assessing regulatory fees on both common carrier and non-common carrier circuits is a necessary, but not sufficient, step in reforming the terrestrial IBC regulatory fee regime. Assessing non-common carrier terrestrial IBCs will eliminate a major incentive and opportunity providers currently have to underreport the number of IBCs they have in service, but it will not provide the full set of benefits the Commission recognized a flat-fee assessment system brings in the 2009 Submarine Cable Order.¹

We discussed how the Commission could use its existing data to identify appropriate break points for fee tiers. As Level 3 has previously advocated, we expect that the Commission's data will show a clear break point between small and large providers, and that only a few providers will find themselves in a situation where the classification of a few circuits could result in moving from one fee category to another.² We discussed the fact that the Commission could, as it did in the Submarine Cable Order, adopt more than two fee tiers.³ I noted, however, that because the number of terrestrial IBCs a provider has in service has no particular impact on the benefits they receive from the Commission's activities, nor does it have any particular impact on the Commission's costs, two tiers would seem to be sufficient to ensure that the terrestrial IBC regulatory fee does not serve as a barrier to entry for smaller providers while ensuring that larger providers pay a fair and equitable portion of the fee category.

Finally, we discussed the fact that assessing terrestrial IBC fees on non-common carrier circuits and adopting a flat-fee regime with appropriate fee tiers and should significantly reduce the incentives providers currently have to underreport

¹ Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Second Report and Order, 24 FCC Rcd 4208 (2009) (Submarine Cable Order).

² Level 3 Comments in MD Docket No. 16-166 (filed June 23, 2016).

³ Submarine Cable Order, 24 FCC Rcd at 4214-15, paras. 15-16.



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the number of terrestrial IBCs they have in service. It may, however, be necessary for the Commission to conduct targeted audits of providers' terrestrial IBCs if the Commission suspects noncompliance even after appropriate changes to the terrestrial IBC assessment regime.

Sincerely,

/s/ Nicholas G. Alexander
Nicholas G. Alexander

enclosures

cc: Tom Buckley
Roland Helvajian
Mika Savir

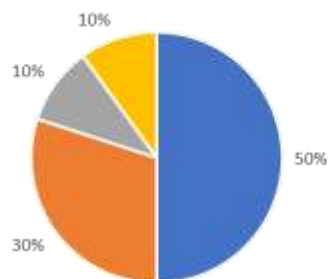


2017 Regulatory Fees – Terrestrial IBCs

Nick Alexander
June 28, 2017

Illustrative Impact of Assessing Non-Common Carrier Circuits

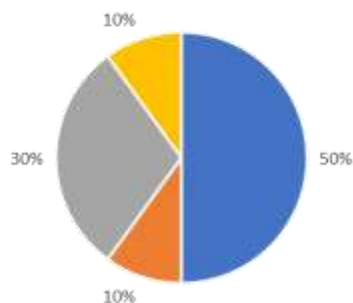
Common Carrier Circuits



■ Company A ■ Company B ■ Company C ■ Company D

Number of Circuits	100	60	20	20
Share of Circuits	50%	30%	10%	10%

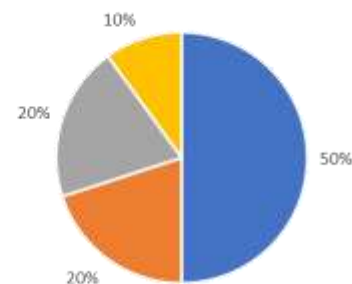
Non-Common Carrier Circuits



■ Company A ■ Company B ■ Company C ■ Company D

Number of Circuits	100	20	60	20
Share of Circuits	50%	10%	30%	10%

Total Circuits



■ Company A ■ Company B ■ Company C ■ Company D

Number of Circuits	100	60	20	20
Share of Circuits	50%	20%	20%	10%

Advantages of a Flat-Fee Assessment

- **Reduced incentive to underreport circuits**
 - Whether common carrier or non-common carrier. The only providers that will have an incentive to underreport are those that are just above a tier break.
 - Providers have argued that their terrestrial IBCs are “information services,” and therefore not subject to reporting or assessment. See, e.g., Comments of Sprint Nextel in MD Docket Nos. 09-65 and 08-65.
- **Competitively neutral**
 - The number of terrestrial IBCs a provider has in service has no particular impact on the benefits they receive from the Commission’s activities, nor does it have any particular impact on the Commission’s costs.
 - A flat-fee system takes this into account, while fee tiers ensure that regulatory fees do not serve as an undue barrier to entry for smaller providers. See *Submarine Cable Order*, 24 FCC Rcd at 4215, para. 18.
- **Eliminates disincentive to deploy additional capacity**
 - Marginal costs, even small marginal costs, are a disincentive to add capacity. See *Submarine Cable Order*, 24 FCC Rcd at 4215, para. 17.
- **Administrative convenience**
 - The Commission need not collect capacity data from providers that pay the “large provider” fee.
 - Providers enjoy greater certainty with respect to their terrestrial IBC fee burden from year to year.